



1459-011

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Yoke Min SIN, et al.

Serial No. 09/196,161

Filed: November 20, 1998

For: RECOMBINANT VACCINE AGAINST INFECTIONS DISEASE IN FISH

Group Art Unit: 1645

Examiner: N. Minnifield

#42
Linda
7/10/03

DECLARATION UNDER 37 CFR 1.132

ASSISTANT COMMISSIONER FOR PATENTS
Washington, D. C. 20231

Sir:

RECEIVED

JUN 25 2003

TECH CENTER 1600/2900

I, Yoke Min Sin, hereby state:

That I am one of the coinventors of the subject matter of the above referenced patent application;

That I have carefully considered the office action dated April 23, 2003 and especially disclosure of the Lin et al. reference that Examiner Minnifield has relied upon as basis for her rejection of the patentability of the claims as being anticipated by the disclosure of this reference;

That I believe that the material referred to by Lin et al. is the same material that has been characterized by Clark et al in their 1992 publication (that publication having been cited by Examiner Minnifield during the prosecution of the above referenced application);

That I have compared, or have had compared under my direction and supervision, the sequence listing for the material disclosed in the Clark et al. publication with the sequence listing for the material of the instant claims;

Kto
7-15-03
considered

That attached hereto and incorporated herein by reference is this element by element comparison. It should be very clear to any person of ordinary skill in this art that the sequence of the Clark et al. material is materially different from the sequence of the material of the instant claims;

That, therefore, the material of the Clark et al. disclosure does not anticipate any of the claims of the instant application, nor does it render any of these claims obvious.

That reference is here further made to the 1997 publication of Sin et al. that has also been cited by Examiner Minnifield in the instant patent application;

That the Sin et al. publication shows that use of the instant claimed material to immunize fish against Ich has been 95% effective (see Abstract and Table 1) whereas the use of the Clark et al. material to immunize fish against Ich has been at best 57% effective (see Abstract of the Lin et al. publication). Clearly, not only are the compared vaccines substantively different in structure, but they also act substantially differently. In this regard, note also the fact that the control in Table 1 of the Sin et al. publication showed a 55% survival, whereas the "immune" samples in the Lin et al. patent only showed, at best, a 57% survival.

That I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.



Professor Yoke Min Sin

Executed this 6 day of June, 2003